

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION**

JOSHUA TIMOTHY MCCLAIN,

Plaintiff,

v.

**DUSTIN DELGADO, DALLON
MCKAY, TEXAS PARKS AND
WILDLIFE DEPARTMENT,
MICHAEL HANSON,**

Defendants.

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CIVIL NO. W-22-CV-00272-ADA

**ORDER ADOPTING MAGISTRATE
JUDGE’S REPORT AND RECOMMENDATION**

Before the Court is the Report and Recommendation of United States Magistrate Judge Jeffrey C. Manske. ECF No. 57. The Report recommends that this Court grant in part and deny in part Defendant Dustin Delgado’s Motion for Summary Judgment. The Report and Recommendation was filed on November 3, 2023.

A party may file specific, written objections to the proposed findings and recommendations of the magistrate judge within fourteen days after being served with a copy of the report and recommendation, thereby securing *de novo* review by the district court. 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b). A district court need not consider “[f]rivolous, conclusive, or general objections.” *Battle v. U.S. Parole Comm’n*, 834 F.2d 419, 421 (5th Cir. 1987) (quoting *Nettles v. Wainwright*, 677 F.2d 404, 410 n.8 (5th Cir. 1982) (en banc), *overruled on other grounds by Douglass v. United States Auto. Ass’n*, 79 F.3d 1415 (5th Cir. 1996)).

Plaintiff filed objections on November 17, 2023. ECF No. 58. The Court has conducted a *de novo* review of the motion to dismiss, the responses, the report and recommendation, the objections to the report and recommendation, and the applicable laws. After that thorough review,

the Court is persuaded that the Magistrate Judge's findings and recommendation should be adopted.

IT IS THEREFORE ORDERED that the Report and Recommendation of United States Magistrate Judge Manske, ECF No. 57, is **ADOPTED**.

IT IS FURTHER ORDERED that Defendant's objections are **OVERRULED**.

IT IS FINALLY ORDERED that Defendant Dustin Delgado's Motion for Summary Judgment (ECF No. 48) is **GRANTED IN PART AND DENIED IN PART** as follows: Defendant Dustin Delgado's Motion for Summary Judgment is **GRANTED** with regards to Plaintiff's malicious prosecution claim and **DENIED** with regards to Plaintiff's false arrest claim and Defendant Dustin Delgado's independent intermediary doctrine defense.

SIGNED this 26th day of November, 2023.



ALAN D ALBRIGHT
UNITED STATES DISTRICT JUDGE